

DICKINSON WRIGHT PLLC
JOHN L. KRIEGER
Nevada Bar No. 6023
Email: jkrieger@dickinson-wright.com
8363 West Sunset Road, Suite 200
Las Vegas, Nevada 89113-2210
Tel: (702) 550-4400
Fax: (844) 670-6009

FRANKLIN M. SMITH
Michigan Bar No. P76987 (*Pro Hac Vice to be Submitted*)
2600 W. Big Beaver Rd.
Suite 300
Troy, MI 48084
Tel: (248) 433-7393
Fax: (844) 670-6009

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ACCLAIM LIGHTING, INC., a Georgia
corporation;

Plaintiffs,

vs.

ROBERT BRUCK, an individual residing in
La Crescenta, California; and BRUCK
CONCEPTS, D/B/A INNOVATIONS IN
LIGHTING, a California corporation,

Defendants.

Case Number:

COMPLAINT AND DEMAND FOR JURY

NOW COMES Plaintiff, by its undersigned counsel, and for its Complaint against Defendants Robert Bruck ("Bruck") and Bruck Concepts, d/b/a Innovations in Lighting ("Bruck Concepts" and collectively "Defendants"), states as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1332, 1338 and 1367. Plaintiff's claims are, in part, based on violations of the Lanham Act, as

1 amended, 15 U.S.C. §§ 1051, et seq. The Court has jurisdiction over the state law claims
2 pursuant to 28 U.S.C. §§ 1332 and 1367.

3
4 2. This Court has personal jurisdiction over the Defendants because, upon
5 information and belief, they have purposefully availed themselves of the privilege of conducting
6 business in the District of Nevada and Plaintiff's claims arise out of or are related to the
7 Defendants' contact with the State of Nevada.

8 3. Venue properly lies within the unofficial Southern Division of the District of
9 Nevada pursuant to 28 U.S.C. § 1391.

10 4. Plaintiff Acclaim Lighting, Inc. is a Georgia domestic profit corporation that is
11 headquartered in the City of Acworth, Cherokee County, Georgia.

12 5. Upon information and belief, Defendant Robert Bruck is a California citizen who
13 resides in the City of La Crescenta, Los Angeles County, California.

14 6. Defendant Bruck Concepts d/b/a Innovations in Lighting, is a California
15 corporation that is headquartered in the City of La Crescenta, Los Angeles County, California.

16 **GENERAL ALLEGATIONS**
17 **Acclaim's Business**

18 7. Founded in or around December 2002, Acclaim is located in Acworth, Georgia
19 where it designs, engineers, and imports decorative lighting fixtures for sale in interstate
20 commerce.

21 8. Upon information and belief, Defendant Bruck Concepts designs, imports, and
22 sells decorative lighting products in interstate commerce, focusing its business on the hospitality
23 and hotel industry throughout the United States.

24 9. Since 2003, both Acclaim and Trend Lighting, Inc. ("Trend"), have invested
25 significant amounts of time and money to design, engineer, and perfect its various products,
26 which it sells in interstate commerce to, *inter alia*, the hospitality and hotel industry throughout
27 the United States.¹

28 ¹ Hereafter, all references to Trend shall include Acclaim and vice versa. No references to
Trend or Acclaim shall be interpreted to impose any limitation upon any right or claim asserted

1 10. On June 3, 2016, Acclaim purchased all Trend assets, including all intellectual
2 property and goodwill generated in Trend, embodied in the Trend name, and associated with
3 Trend's products ("Acclaim's Trend Products" or "Acclaim Trend Products").
4

5 11. Attached as Exhibit A and incorporated herein is an excerpt from Acclaim's
6 Trend Products catalogue depicting Acclaim's Trend Products as well as original product design
7 specifications for same.

8 12. To distinguish its products from those of its competitors, Plaintiff's lighting
9 products feature designs unique to Plaintiff. Plaintiff's unique designs include, among other
10 things, unique stacked ring lamp bases, unique stacked chain-link lamp bases, unique side-by-
11 side vertical cylinder lamp bases, unique cone-shaped stained-glass lamp bases, as well as
12 distinct dimensions and overall shape. (Exhibit A).

13 13. Through considerable investment, advertising, marketing and sales, the public has
14 come to know and associate Plaintiff as the sole source of lighting products containing the
15 unique designs, dimensions, and overall shapes depicted in Exhibit A.

16 **Defendant Robert Bruck**

17 14. Defendant Robert Bruck was previously employed by Trend as its Vice President
18 from in or about August 2002 to August 2015.

19 15. Upon information and belief, during his time with Trend, Mr. Bruck's primary
20 tasks were to sell lighting products to, and develop and maintain business with Trend's hotel,
21 hospitality and commercial accounts throughout the United States.

22 16. Through his employment with Trend, Mr. Bruck had broad access to, and was
23 trusted with, Trend's confidential, proprietary and trade secret information, including, without
24 limitation, intimate knowledge of the precise designs of Acclaim's Trend Products, the particular
25 and unique suppliers and manufactures of Acclaim's Trend Products, customer lists and
26 customer purchasing needs, Trend's strategic business and marketing plans, detailed product
27 pricing information and financial information, information concerning Trend's business

28 _____ (continued)
by Acclaim against Defendants.

1 operation and techniques, as well as all other aspects of its business that have made Trend – and
2 now Acclaim – successful over the past twenty years.

3 17. Because Mr. Bruck had access to, among other things, detailed information
4 concerning key Acclaim Trend Products, the specifications for such products, and the identity of
5 key Acclaim Trend Products manufacturers, he possesses the ability to reproduce a broad range
6 of Acclaim's Trend Products.

7 18. Additionally, Mr. Bruck had access to customer information, financial
8 information, pricing information, marketing information, as well as other confidential
9 information necessary to reproduce products identical, or confusingly similar, to Acclaim's
10 Trend Products and to market and sell those confusingly similar products to Trend's – and now
11 Acclaim's – customers.

12 19. Additionally, Mr. Bruck was a key employee who primarily interfaced with
13 Trend's customers and prospective customers. Trend placed Mr. Bruck in a position of trust and
14 confidence with Trend's customers and provided him with broad access to Trend's confidential
15 business information in order to conduct business on behalf of Trend – now Acclaim.

16 20. In short, Mr. Bruck had access to all information necessary to duplicate Acclaim's
17 very successful and unique products, and overall business strategy to sell knockoffs to Acclaim's
18 current and future customers and wrongfully compete against Acclaim.

19
20 **Robert Bruck forms Bruck Concepts**

21 21. Mr. Bruck ended his employment with Trend in or about the month of August,
22 2015 and, upon information and belief, began his own company Bruck Concepts, d/b/a
23 Innovations in Lighting ("Bruck Concepts"), providing custom lighting fixtures for hotel lobbies
24 and guestrooms. **(Exhibit B).**

25 22. Upon information and belief, as the founder and President of Bruck Concepts, Mr.
26 Bruck specializes, without limitation, in sales, branding, marketing, product development,
27 quality control, and managing the overall day-to-day operations of Bruck Concepts. **(Exhibit B).**

28 23. Upon information and belief, Mr. Bruck and Bruck Concepts have represented

1 and continue to represent to the public that Bruck Concepts – as opposed to Plaintiff – is the
2 successor source and supplier of Trend lighting products. (**Exhibit C**).

3 24. Upon further information and belief, Bruck Concepts uses marketing material on
4 its website and Facebook page featuring Acclaim's Trend Products as well as finished hotel
5 lighting projects that Trend previously completed for various hotel and hospitality customers.

6 25. Attached as Exhibit D and incorporated herein is an excerpt from Bruck
7 Concepts' product catalogue depicting various products, which upon information and belief,
8 infringe Acclaim's intellectual property rights, as well as photos taken at one of Acclaim's key
9 suppliers depicting Defendants' infringing products fully manufactured and ready for import into
10 the United States.

11 26. Upon information and belief, after forming Bruck Concepts, Defendants
12 contracted with Hyclass International, Inc. (a key Acclaim/Trend factory) to import lighting
13 products for sale in the United States containing design components that are identical and/or
14 confusingly similar to Acclaim's Trend Products (**Exhibit A versus Exhibit D**).

15 27. Upon information and belief, Defendants sold or offered for sale the infringing
16 products, without limitation, to the Bellagio Hotel in Las Vegas, the Palms Place hotel in Las
17 Vegas, and the CityCenter hotel in Las Vegas. (**Exhibit B**).

18 28. Upon information and belief, Defendants have sold or attempted to sell the
19 infringing products to current and/or prospective Acclaim customers.

20 29. In short, upon information and belief, after leaving Trend, Mr. Bruck used
21 Acclaim's confidential, proprietary, and trade secret information to reproduce Acclaim's Trend
22 Products and solicit existing and prospective Acclaim customers all in an effort to develop and
23 distribute identical and/or confusingly similar products and mimic Acclaim's sales and
24 marketing strategy to ultimately steal Acclaim's customers and overall market share.

25 30. Additionally, upon information and belief, Defendants, without permission or
26 authority from Trend or Acclaim, have infringed upon Trend's – now Acclaim's – trade dress by
27 making, using, promoting, advertising, selling, and/or offering for sale lighting fixtures featuring
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1 key design elements that are identical and/or confusingly similar to those created by Trend, all
2 for products directly competitive to Acclaim's Trend Products.

3 31. A comparison of Plaintiff's unique products and Defendant's products depicted in
4 Exhibit D, demonstrates Defendants' clear attempt to copy Plaintiff's proprietary trade dress and
5 overall design. (**Exhibit A versus Exhibit D**).

6 32. Specifically, Bruck Concepts' products infringe upon Acclaim's Trend Products'
7 trade dress by, among other things, misappropriating the unique stacked rings lamp bases, unique
8 stacked chain-link lamp bases, unique side-by-side cylinder lamp bases, cone-shaped stained-
9 glass lamp bases, as well as Acclaim's Trend Products' unique dimensions and overall shapes.

10 33. Additionally, Bruck Concepts' product catalogue features nearly identical product
11 numbers as those found in Acclaim's Trend Products catalog (**Exhibit A versus Exhibit D**).

12 34. By copying Acclaim's Trend Products' trade dress and designs, Defendants are
13 attempting to trade off the goodwill that Trend and Acclaim have established over years of
14 designing, manufacturing, importing, marketing, and selling its distinctive trade dress.

15 35. By offering the accused lighting products for sale, Defendants infringe upon
16 Acclaim's Trend Products' trade dress rights and are likely to cause confusion in the marketplace
17 with Acclaim's Trend Trade Dress as to the source, origin, or sponsorship of its products.

18 36. Upon information and belief, Defendants knowingly and intentionally copied the
19 trade dress and design of Acclaim's Trend Products in an attempt to take unfair advantage of and
20 trade off the reputation and goodwill of Trend and Acclaim.

21 37. Neither Trend nor Acclaim have authorized or otherwise approved Defendants'
22 use or misappropriation of Acclaim's Trend Products' trade dress or design.

23 38. Defendant's actions have, and/or will result in a substantial diversion of trade
24 from Acclaim to Defendants and further exacerbate consumer confusion.

25 39. In so doing, Mr. Bruck has willfully used and disclosed Acclaim's confidential,
26 proprietary, and trade secret information for his own personal benefit, and/or for the benefit of
27 his company, Bruck Concepts. Mr. Bruck knew that Trend considered and treated such
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1 information as confidential, proprietary and a trade secret, and Mr. Bruck also knew, or should
 2 have known, that Trend – now Acclaim – spent significant amounts of money in designing and
 3 marketing its products, which Mr. Bruck and Bruck Concepts wrongfully reproduced.

4 40. Such use and disclosure of Acclaim's confidential, proprietary and trade secret
 5 information constitutes a violation of Defendant's obligation to Acclaim under applicable law.
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7 **COUNT I – TRADE DRESS INFRINGEMENT**
 8 **(15 U.S.C. § 1125)**

9 41. Acclaim incorporates herein all other allegations of this Complaint.

10 42. When designing, manufacturing, and advertising its products, Trend – and now
 11 Acclaim – adopted a particular dress, design, and combination of features to produce an
 12 inherently distinctive visual appearance for the purpose of presenting its works to the public.

13 43. Defendants have imitated Acclaim's Trend Products' trade dress, appearance,
 14 design and combination of features, as they pertain to Acclaim's Trend Products in such a way as
 15 to mislead the public into believing that Defendants' products originate with Plaintiff, or that
 16 Defendants' products are connected to, affiliated with, or sponsored by Plaintiff.

17 44. The multiplicity of similarities between Acclaim's Trend Products and
 18 advertisements and those produced and sold by Defendants evidences a conscious and willful
 19 intent by Defendants to imitate and copy Plaintiff's unique and distinct trade dress and design of
 20 Acclaim's Trend Products.

21 45. Defendants' actions are intended and/or operate to confuse the public.

22 46. Plaintiff's sale of its own products is prejudiced by Defendants' infringing upon
 23 Acclaim's Trend Products' unique and distinct trade dress and overall design of Acclaim's Trend
 24 Products.

25 47. As a direct and proximate result of Defendants' imitation and reproduction of
 26 Acclaim's Trend Products' trade dress and designs, Plaintiff has suffered and will continue to
 27 suffer irreparable harm, and has been damaged in an amount not readily ascertainable. Pursuant
 28 to 17 U.S.C. § 502, Plaintiff is entitled to an injunction permanently preventing Defendants from

1 imitating and reproducing Acclaim's Trend Products' trade dress.

2 48. Pursuant to 17 U.S.C. § 504, Acclaim is entitled to an award of damages against
3 Defendants.

4 49. Additionally, as a direct and proximate result of Defendants' conduct, Acclaim
5 has incurred expenses for attorney's fees and costs. Pursuant to 17 U.S.C. § 505, Acclaim is
6 entitled to compensation for its attorney's fees and costs in an amount to be determined by the
7 Court.

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9 **COUNT II – TRADE SECRET MISAPPROPRIATION**
(NEV. REV. STAT. § 600A.010 ET SEQ)

10 50. Acclaim incorporates herein all other allegations of this Complaint.

11 51. Acclaim possess various designs, methods, techniques, processes, procedures and
12 other business information that constitutes "trade secrets" within the meaning of Nev. Rev. State
13 § 600A.030(5), ("Acclaim's Trend Trade Secrets").

14 52. Acclaim's Trend Trade Secrets provide Acclaim with independent economic
15 value and with an advantage over their competitors.

16 53. Acclaim has taken, and upon information and belief Trend took, reasonable
17 precautions to protect the confidentiality of Acclaim's Trend Trade Secrets within the meaning
18 of Nev. Rev. State § 600A.032, including, without limitation, securing media upon which the
19 trade secrets are maintained, restricting access to such trade secrets, and preventing the
20 disclosure of the trade secrets to third parties and the general public.

21 54. Upon information and belief, Mr. Bruck, during his employment with Trend,
22 misappropriated Acclaims Trend Trade Secrets through improper means, for his own use and
23 without the authorization of Trend or Acclaim.

24 55. Upon information and belief, Bruck Concepts has misappropriated Acclaim's
25 Trend Trade Secrets by acquiring those trade secrets from Mr. Bruck, who Bruck Concepts
26 knows or has reason to know, acquired the trade secrets by improper means.

27 56. Upon information and belief, at the time Defendants acquired Acclaim's Trend
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1 Trade Secrets, they knew that Mr. Bruck had a duty, pursuant to his employment with Trend
2 (now Acclaim), to maintain the secrecy of Acclaim's Trend Trade Secrets and not to disclose
3 such informatio.

4 57. Acclaim's Trend Trade Secrets derive independent economic value from their
5 secrecy, are not generally known to third parties, are not readily ascertainable by proper means
6 by other persons who might obtain economic value from their disclosure and use, and are subject
7 to reasonable efforts by both Trend and Acclaim to maintain their secrecy.

8 58. The acts and conduct of Mr. Bruck and Bruck Concepts in misappropriating and
9 encouraging, inducing, and/or causing material misappropriation of the trade secrets are the
10 direct and proximate cause of a devaluation of the trade secrets' market value that would not
11 have otherwise occurred but for the conduct of Defendants.

12 59. As a result of Defendants' misappropriation of Acclaim's Trend Trade Secrets,
13 Acclaim has suffered irreparable harm, and has been damaged in an amount in excess of
14 \$75,000. Pursuant to Nev. Rev. Stat. § 600A.040(1), Acclaim is entitled to a permanent
15 injunction preventing the actual and threatened misappropriation of the trade secrets.

16 60. Pursuant to Nev. Rev. Stat. § 600A.050(1), Acclaim is entitled to an award of
17 damages against Defendants.

18 61. Because Defendants' misappropriation was willful, wanton, and in reckless
19 disregard of Trend's (now Acclaim's) rights, pursuant to Nev. Rev. Stat. § 600A.050(2),
20 Acclaim is entitled to an award of exemplary damages in an amount not to exceed twice the
21 amount of damages described in Nev. Rev. Stat. § 600A.050(1).

22 62. Acclaim is also entitled to an award of attorneys' fees and costs in an amount to
23 be determined at trial pursuant to Nev. Rev. Stat. § 600A.060.

24
25 **COUNT III - FALSE ADVERTISEMENT**
26 **(15 U.S.C. § 1125)**

27 63. Acclaim incorporates herein all other allegations of this Complaint.

28 64. Upon information and belief, Defendants have and continue to disseminate

1 commercial advertisements that contain false statements of fact regarding their products and/or
2 Acclaim's Trend Products ("Defendants' False Advertisements").

3 65. Defendants' False Advertisements either deceive or have the tendency to deceive
4 a substantial segment of their audience by portraying Acclaim's Trend Products and Trend's
5 (now Acclaim's) completed client work product as Defendants'.

6 66. Defendants' deception is material in that it is likely to influence customers'
7 purchasing decisions.

8 67. Upon information and belief, Defendants caused the false advertisements to enter
9 interstate commerce by, among other things, displaying Defendants' False Advertisements on the
10 Bruck Concepts website and official Facebook page. (Exhibit E).

11 68. As a direct and proximate result of Defendants' False Advertisements, Plaintiff
12 has and will continue to suffer damages, including, without limitation, diversion of sales from
13 Plaintiff to Defendants, and/or a decrease in the goodwill associated with Acclaim's Trend
14 Products.

15 **COUNT IV – COMMON LAW UNFAIR COMPETITION**

16 69. Acclaim incorporates herein all other allegations of this Complaint.

17 70. The acts and conduct of Mr. Bruck and Bruck Concepts as alleged in this
18 Complaint constitute unfair competition under Nevada common law. .

19 71. Defendants' acts and conduct as alleged in this Complaint have damaged and will
20 continue to damage Acclaim's goodwill and reputation and has resulted in losses to Acclaim and
21 illicit gain to Mr. Bruck and Bruck Concepts in an amount that is unknown at the present time.

22 72. As a direct and proximate result of Defendants' improper actions and unfair
23 competition as set forth herein, Acclaim has suffered and continues to suffer damages and is
24 entitled to recover the damages requested below.

25 **COUNT V – UNJUST ENRICHMENT**

26 73. Acclaim incorporates herein all other allegations of this Complaint.

27 74. Upon information and belief, Defendants' acts complained of in this Complaint
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1 have conferred a benefit upon Defendants at Plaintiff's expense.

2 75. Upon information and belief, Defendants have unjustly obtained said benefit at
3 Plaintiff's expense and to Plaintiff's loss and detriment.

4 76. Upon information and belief, Defendants accept and retain such benefits at
5 Plaintiff's expense, loss, and detriment.

6 77. Retention of such benefit by Defendants is inequitable.

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8 **COUNT VI – DECEPTIVE TRADE PRACTICES**
9 **(NEV. REV. STAT. § 598.0915 ET SEQ)**

10 78. Acclaim incorporates herein all other allegations of this Complaint.

11 79. Upon information and belief, Defendants have represented and continue to
12 represent that Mr. Bruck and Bruck Concepts are affiliated, connected to, or in association with
13 Acclaim, or that their products have been or are currently certified by Acclaim.

14 80. Upon information and belief, Defendants made and make such representations
15 with knowledge that they are false.

16 81. Defendants' above-described conduct is causing a likelihood of confusion or
17 misunderstanding as to the source, sponsorship, or approval of Defendant's products, causing a
18 likelihood of confusion as to Defendants' affiliation, connection or association with Plaintiff, and
19 otherwise damaging the public.

20 82. Defendants' conduct constitutes unfair and deceptive trade practices in violation
21 of Nev. Rev. Stat. § 598.0915, *et seq.*

22 83. As a direct and proximate result of Defendants' improper actions and deceptive
23 trade practices as set forth herein, Acclaim has suffered and continues to suffer damages and is
24 entitled to recover the damages requested below.

25 **WHEREFORE**, Acclaim respectfully requests that this Court grant Acclaim the
26 following relief:

27 A. Permanently enjoining and restraining Bruck Concepts, its officers, directors,
28 principals, agents, servants, employees, successors and assigns, and all those in

1 active concert or participation with it from all acts of trade dress infringement,
2 trade secret misappropriation, or any other wrongful conduct alleged in this
3 Complaint;

4 B. Permanently enjoining and restraining Robert Bruck, his agents, servants,
5 employees, successors and assigns, and all those in active concert or participation
6 with him from all acts of trade dress infringement, trade secret misappropriation,
7 or any other wrongful conduct alleged in this Complaint;

8 C. Direct that Robert Bruck and Bruck Concepts be required to account for or
9 relinquish to Acclaim all gains, profits, and advantages derived by Robert Bruck
10 and Bruck Concepts through its unlawful conduct complained of in this
11 Complaint;

12 D. Direct that Defendants pay Acclaim such damages as it has sustained as a
13 consequence of Defendants' wrongful conduct complained of in this Complaint;

14 E. Direct that Defendants pay Acclaim treble damages pursuant to 15 U.S.C. § 1117
15 for their deliberate and willful misconduct;

16 F. Direct that Defendants pay Acclaim an award of punitive damages for their
17 deliberate and willful misconduct;

18 G. Direct that Defendants destroy all labels, signs, prints, packages, wrappers,
19 receptacles, and advertisements in their possession bearing Acclaim's trade dress,
20 and to destroy any reproduction, counterfeit, copy, or colorable imitation of
21 Acclaim's lighting products, and destroy all plates, molds, matrices, and other
22 means of making the same pursuant to 15 U.S.C. § 1118;

23 H. Direct that Defendants disgorge all of their ill-gotten gains to the extent of their
24 gains, profits, and advantages derived through their unlawful conduct complained
25 of in this Complaint, and impose a constructive trust upon any or all property and
26 money that is in Defendants' possession and control as a result of their wrongful
27 conduct complained of in this Complaint;
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- I. Direct that Defendants pay Acclaim's costs associated with this action, as well as Acclaim's reasonable attorneys' fees consistent with the Lanham Act, as amended 15 U.S.C. § 1051 et seq, and the Nevada Uniform Trade Secrets Act, Nev. Rev. Stat. § 600A.010 et seq.
- J. Award Acclaim such further relief as the Court may deem just and proper.

JURY DEMAND

Acclaim demands a trial by jury for all issues so triable.

DATED this 17th day of January, 2017.

DICKINSON WRIGHT PLLC


JOHN L. KRIEGER
Nevada Bar No. 6023
Email: jkrieger@dickinson-wright.com
8363 West Sunset Road, Suite 200
Las Vegas, Nevada 89113-2210
Tel: (702) 550-4400

FRANKLIN M. SMITH
Michigan Bar No: P76987
2600 W. Big Beaver Rd.
Suite 300
Troy, MI 48084
Tel: (248) 433-7393
Pro Hac Vice to be Submitted

Attorneys for Plaintiff